

JUL 7 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAMES L. SNIDER,

Petitioner - Appellant,

v.

CURRY, Warden,

Respondent - Appellee.

No. 08-15805

D.C. No. 3:07-CV-04311-MHP

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Marilyn H. Patel, District Judge, Presiding

Submitted June 15, 2011\*\*

Before: CANBY, O'SCANNLAIN, and FISHER, Circuit Judges.

California state prisoner James L. Snider appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition challenging the Board's 2006 decision denying him parole. We dismiss.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Snider contends that the California Penal Code § 3041 creates a federally protected liberty interest in parole and that the Board's failure to set a parole date at his 2006 hearing violated his federal constitutional rights. Snider also contends that the Board violated his rights under the Equal Protection Clause.

After briefing was completed in this case, this court held that a certificate of appealability is required to challenge the denial of parole. *See Hayward v. Marshall*, 603 F.3d 546, 554-55 (9th Cir. 2010) (en banc). Because Snider has not has made a substantial showing of the denial of a federal constitutional right, we decline to certify his claims. *See Swarthout v. Cooke*, 131 S. Ct. 859, 862-63 (2011) (per curiam); 28 U.S.C. § 2253(c).

Snider's motion for appointment of counsel is denied.

**DISMISSED.**